

19.140 OUTSIDE EMPLOYMENT

Reference:

FOP/City Labor Agreement
Manual of Rules and Regulations - 1.05, 1.08, 1.12
Personnel Policies and Procedures 2.3
Procedure 19.105 - Sick/Injured With Pay And Special
Leaves
Procedure 19.107 - Family Medical Leave Act
Procedure 19.130 - Limited Duty Personnel
City of Cincinnati Special Events Policies and
Procedures
Fair Labor Standards Act
Standards Manual - 22.3.3, 22.3.4

Definitions:

Outside Employment: Any employment, whether or not in exchange for a fee or other service. Outside employment does not include military duty or volunteer charity work unless the volunteer charity work is an extension of police services.

Extension of Police Service Outside Employment: The off-duty use of enforcement powers and training as provided to Police Department members by the city. In the case of extension of police service employment, the employer hires not the individual, but the uniform, badge, gun, and authority of the officer. This activity must remain closely regulated. All rules, regulations, policies, procedures, and directives applicable to officers in an on duty status also apply to officers engaged in extension of police service outside employment.

Nonpolice Related Outside Employment: Any employment not requiring the use of law enforcement powers, training, or equipment by an off-duty officer.

Policy:

The Department prohibits employment that presents a potential conflict of interest, or reflects an abuse of official position which could give rise to illegal or unethical practices.

The FLSA (Fair Labor Standards Act) forbids officers to volunteer extension of police services. If an officer desires to perform police-related services for a charitable or religious institution, a work permit must still be obtained and payment for services provided must be tendered, based on the hourly amount currently in effect. If the officer wishes to donate the proceeds earned back to the charitable or religious organization, that is solely the decision of the affected officer. Officers desiring to follow this course of action must consider the tax consequences involved.

Personnel are expected to perform all lawful and reasonable duties and tasks related to their detail assignment. Any disputed duties or tasks must be brought to the attention of a supervisor as soon as practical for resolution. Substantiated complaints of unsatisfactory performance may result in disciplinary action and/or detail suspension as deemed necessary by the Police Chief.

Prohibitions include, but are not limited to, the following:

1. Department members are not permitted to sign up for, or otherwise indicate they are available to work, any more than one outside employment detail scheduled for a specific date and time. Department members are not permitted to sign up for, or otherwise indicate they are available to work, outside employment details if the working hours of the details overlap.
2. Sworn personnel, whether on duty or working a detail, may not handle currency or deposit bags. Sworn personnel are limited to escorting a responsible business employee.
3. Employment or interest in any vending machine company or service. This does not prohibit sworn or nonsworn personnel from purchasing, renting, or leasing vending machines from vending machine companies.
4. Employment of sworn or nonsworn personnel by a business to investigate or collect accounts, including repossession of automobiles and collection of debts.

5. Pre-employment investigations by sworn or nonsworn personnel for private industry. For this procedure, pre-employment polygraph examinations are not considered pre-employment investigations.
6. Any type of work by sworn or nonsworn personnel related to bail bonding.
7. Work by sworn personnel as a chauffeur for a limousine for hire company.
8. Any employment of sworn or nonsworn personnel which assists, in any manner, the case preparation for the defense in any criminal action or proceeding.
9. Any type of work by sworn personnel for, interest in, or ownership of a liquor permit premise where the primary business is selling alcoholic beverages by the glass. Exceptions are: large scale public safety details such as Riverfront Coliseum, Riverfront Stadium, Cincinnati Gardens, church festivals, parking lot details at liquor permit premises, etc.
10. Plainclothes shoplifting details by sworn personnel. Exceptions may be made by the Police Chief for extenuating circumstances on a case by case basis.
11. Personnel in covert, undercover assignments may work uniformed, police related outside employment details with prior authorization from the requesting officer's bureau commander. All officers working these detail assignments will comply with Department uniform and grooming standards.

Procedure:

A. Outside Employment Approval:

1. All employees must obtain the Police Chief's written approval before engaging in outside employment.

- a. Employees will complete a Form 668 (Outside Employment Work Permit) for all outside employment requests and submit them through their district/section/unit commander.
 - 1) Forms 668 must include the employer's state worker's compensation number.
 - a) The only exception is nonpolice related outside employment where the Department employee is a sole proprietor or partner. Sole proprietors and partners without employees have the option of carrying worker's compensation insurance.
- 2. A Form 668A (Acknowledgment by the Secondary Employer) must be completed or renewed:
 - a. Annually, on or about January 1, for permanent secondary employers.
 - b. Once per calendar year for temporary secondary employers.
- 3. After review and approval, the district/section/unit commander will forward the Form 668 (and Form 668A when necessary) through the Bureau Commander to DCU (Detail Coordination Unit).
 - a. If a detail is in a district other than the unit of assignment, the requesting officer will obtain his unit commander's approval and then the affected district commander's approval before obtaining his Bureau Commander's approval.
 - b. If police related services are to be rendered in another police jurisdiction, the requesting officer must obtain a letter of approval from the "chief law enforcement official" of that agency. Submit the letter to the Police Chief with the work permit. The Police Chief will consider each request on a case by case basis.

- c. A unit/shift OIC (officer in charge) may approve requests for outside employment of an urgent nature pending the immediate processing of the necessary forms.
- 4. DCU will review all outside employment forms for completeness and compliance with procedure. After review, DCU will forward the forms to the Police Chief.
- 5. Once approved, DCU will file the original Forms 668 and 668A in the master work permit file.
 - a. DCU will make additional copies and route them, if necessary.
 - b. Officers must submit any changes to the Form 668 by completing a new Form 668 and sending it to DCU.
 - 1) DCU will forward the new Form 668 to the Police Chief for approval.
- 6. Employees or detail coordinators may cancel an outside employment work permit by submitting a Form 17 through channels to DCU.

B. Blanket Permits:

- 1. Blanket permit details require the completion of Forms 668 and 668A. These forms will cover all assigned personnel who work the detail.
 - a. The district/section/unit responsible for administering blanket detail permits will complete Forms 668, 668A, and 668B (Detail Assignment Roster).
 - b. DCU will complete Forms 668, 668A, and 668B for the blanket detail permits under their control.
- 2. A monthly negative report listing all inactive permits is required for each reporting period, or permits will be canceled.

C. PVO (Position Vacancy Overtime):

1. Districts/sections/units will provide DCU with a copy of the report listing all PVO worked during a calendar month.

a. Submit to DCU by the 10th of the following month.

D. Detail Coordinators:

1. Each police related outside employer detail must have a detail coordinator. If only one officer works the detail, that officer is the detail coordinator.

a. The highest ranking supervisor working the detail must be the coordinator.

1) No employee may assign an employee of a higher rank to work a private detail.

a) Specialists and police officers will be considered equal in rank for purposes of this requirement.

b. The detail coordinator for each police related private employer detail will submit a typed monthly Form 668B in chronological order listing the names of personnel who actually worked the detail and indicate the number of hours paid. Submit the Form 668B to DCU by the 10th of the following month.

1) Temporary police related detail coordinators must also submit a Form 668B within five business days of completion of the detail.

2) Detail coordinators are required to submit a monthly Form 668B with the wording " No detail hours worked" if no officer worked the detail during the reporting period.

- 3) Officers scheduled to work details are responsible for notifying the Detail Coordinator of changes to the scheduled detail hours and ensuring the accurate recording of hours on the monthly Form 668B.
 2. Employees working police related details are under the supervision of the on-duty district OIC.
 3. Employees will immediately notify an on-duty supervisor of the district of occurrence or closest district and report on a Form 17 any incidents arising from their outside employment which might adversely affect the Department or its personnel.
- E. Probationary Officers:
1. The district commander may grant a probationary officer permission to work a police related detail once the probationary officer receives approval to operate as a single patrol unit.
 - a. The probationary officer may only work details requiring two or more officers. One of the officers must be a non-probationary officer.
- F. Assignment and Scheduling of Outside Employment Details:
1. DCU is responsible for assigning personnel for all overtime details paid on the city check, except PVO. Detail coordinators are responsible for assigning and scheduling all other details.
 2. For scheduling purposes, each district/section/unit needing no more than 20 personnel on an overtime basis will notify DCU of the number needed at least two weeks in advance. Any detail requiring more than 20 personnel will notify DCU of the number needed at least one month in advance.

- a. The district/section/unit OIC may choose, with the affected Bureau Commander's approval, specific personnel due to the nature of the detail (e.g., knowledge of a specific geographical area).
3. Department personnel who want to work overtime details will submit a completed Form 668C (Overtime Availability Form) to DCU.
 - a. Submit a new Form 668C any time the information on a previously completed Form 668C changes.
4. DCU will assign details to personnel according to the total hours previously worked. If officers work an equal number of hours, seniority will be the deciding factor.
5. Personnel chosen but unable to work a detail due to sickness, emergency, or other legitimate reason must:
 - a. Notify an on-duty supervisor or on-duty detail coordinator in the affected district, or during regular business hours a representative of DCU. The supervisor, detail coordinator, or DCU representative will select a replacement and document, via Form 17, listing the detail name, date, time, person originally assigned, and the person who worked the detail.
 - b. Forward documentation to DCU no later than the next business day.
6. Upon completion of the detail, personnel will have an authorized employee at the detail sign a completed Form 68P (Overtime and Court Appearance Report).
 - a. Officers are to immediately fax a copy of Form 68P to the DCU office and route the original through the chain of command to their respective timekeepers.

- 1) DCU will complete a Form 435 (Paid Overtime Report) listing all the hours worked by the officer and then forward the Form 68P to the officer's unit of assignment for data entry.

G. Compensation:

1. The Police Chief will set the minimum outside employment hourly pay rate.
 - a. Pay rates apply except as provided by ordinance, statute, or agreement entered into by the city.
 - b. Department employees may not work a police related detail for less than the scheduled rank pay.
 - 1) Except with the Police Chief's permission, new detail requests reserved for supervisors will require payment at the supervisory rate.
 - c. The pay rate for special duty details is time and a half the outside employment hourly rate. Private duty details are straight time details.
2. A district commander will determine the number of officers, rate of pay (special or private duty), equipment, and supplies necessary to perform police related outside employment details.
 - a. The merits of each detail will determine if it is a special or private duty detail.
3. An agency must hire and pay a supervisor when more than three specialists or officers simultaneously work a detail at one location.
 - a. Supervisors do not have to be compensated at the supervisor's rate if filling a position intended for a specialist/police officer.

- 1) Supervisors will be compensated at the supervisory rate if filling a position intended for a supervisor.
 - b. Supervisors may not work at the specialist/police officer rate of pay when specialists/police officers are assigned to the detail.
 - c. In instances where details involve multiple supervisors working in lieu of specialists/police officers, only the ranking supervisor needs to be compensated at the supervisory rate, following the manpower standards listed above, except as indicated in Section G.1.b.1).
 - d. Supervisors may continue to work those closed, single officer details which are currently paid at the specialist/police officer rate if supervision of subordinate personnel does not become a factor.
 - 1) New requests of this nature will be considered on a case by case basis.
 - e. Blanket, single officer details that are paid at the specialist/police officer rate may be filled by supervisors as a last resort, when details would otherwise go unfilled (24 hours or less).
4. Officers working police related details will receive a minimum of two hours pay for outside employment of less than two hours duration.
 - a. Employers who cancel during the detail will pay for a minimum of two hours or for the time actually worked, whichever is greater.

- b. An employer who cancels a detail must notify the detail officer at least two hours before the start of the detail. If the employer fails to provide the officer two hours notice, the detail officer will receive a minimum of two hours pay, paid by the employer.
 - c. If the detail is a city time and a half detail, the officer must be off duty for the full time of the actual payment.
5. Court time compensation resulting from private employment is the responsibility of the private employer.
- a. If an officer takes enforcement action due to his status as a police officer, and in circumstances which do not directly benefit the outside employer, the officer, with permission of a supervisor, may be compensated by the city.
- 1) Examples:
- a) An officer is working a detail and takes enforcement action off the premises of the outside employer in an incident not related to the employer.
 - b) An officer is working an outdoor detail and assists with or disregards an on-duty unit with a radio run where enforcement action is taken and that action is unrelated to the outside employer (e.g., Highway Maintenance, church festival, etc.).
 - c) Anytime a police officer takes enforcement action completely unrelated to the detail.
- b. The supervisor approving the city paid compensation will note on the arrest slip or citation the action was not related to the detail.

- c. The officer will present a copy of the arrest slip or citation and the supervisor's notation to Court Control Unit personnel when checking in for court.
 - d. The Court Control Unit supervisor will document perceived inconsistencies on the Court Control Unit supervisor's daily report.
- 6. No sworn employee will receive lump sum payments for disbursement to officers working police related outside employment details. The hiring agency must pay each detail officer directly or through the city payroll.
 - 7. Payment for outside employment from more than one employer for the same date and time, regardless of circumstances, is prohibited.
 - 8. It is city policy to recover Department expenses incurred for providing services to other city departments.
 - 9. City agency or city sponsored/cosponsored events (Octoberfest, Taste of Cincinnati, etc.), or work done by an outside agency for the city, county, or state (expressway repair):
 - a. Officers will complete a Form 68P. The pay rate is time and one-half on the regular city payroll.
 - b. Fiscal and Budget Section will bill the affected city agency unless specifically exempted by the City Manager or City Council. The billing will include:
 - 1) Time and a half officer's salary
 - 2) Fringe benefits
 - a) Retirement
 - b) Accrued liability

- c) Worker's compensation
 - d) Unemployment compensation
- c. Complete a Form 55 (Letter of Understanding) or 56 (Police Escort Letter of Memorandum of Understanding) and forward it to the Fiscal and Budget Section for billing. Copies of the memorandum are available at DCU.

10. Outside agencies:

- a. Complete a Form 55 whenever an outside employer performs work for the city where contracts or permits require a police detail. The overtime rate will apply.
 - 1) If an outside employer performs work for the city and wishes to hire a police detail at his own option, he may pay the officer directly, at the current outside employment rate.
 - a) If an outside employer hires a police detail at his own option and wishes to pay for services rendered through the city payroll, the overtime rate will apply. Complete a Form 55 or Form 56.
 - 2) Complete a Form 56 whenever an employer requests an on-duty police escort of minimal duration, normally one to two hours. Use on-duty personnel only for these escorts. Direct requests for this type of escort to DCU.
 - 3) If the agency's work is not performed for the city (e.g., convenience store security, church festivals, etc.), the employer will pay the outside employment hourly rate directly to the officer(s).

11. Police vehicles used on outside employment details require vehicle compensation paid to the city at the current hourly rate.
 - a. Complete a Form 55 covering vehicle compensation.
 - 1) Forward the completed paperwork to the Fiscal and Budget Section for billing.
 - b. Any waiver of fees requires the Police Chief's or Bureau Commander's written approval.

H. Work Hours:

1. Employees will ensure there is at least a 15 minute separation between their tour of duty and outside employment, and between successive outside employment details if the starting location for the next detail is different from the ending location of the previous detail.
 - a. The 15 minute separation period is not necessary if the outside employment detail starts in the same location the on-duty work stopped or for time and a half details paid on the city check.
2. The Police Department may review the on-duty work performance of any officer who works greater than 64 combined hours of work for the city and work in off-duty details within a regular work week (Sunday through Saturday). The purpose of this review is to determine whether the officer's outside employment has had an adverse effect on the officer's performance of his official police duties. Working combined hours greater than 16 hours in any 24 hour period is prohibited.
3. Employees may not engage in any type of outside employment while working in an on-duty assignment.

I. Parking Lot Details at Liquor Permit Premises:

1. District commanders may submit a blanket permit for a parking lot detail at a liquor permit premise where the primary business is sale of liquor for consumption on the premises.
 - a. Each detail is open to all sworn personnel, except probationary officers.
 - b. The Department prohibits private work permits for parking lot details at a liquor permit premise.
2. DCU schedules all parking lot details.

- a. The DCU will forward sign-up sheets to the districts on the fourth Tuesday of the month for the second coming month.

Example: On March 23, DCU will send out sign-up sheets for May. The sign-up sheets will be due by the second Tuesday of the following month.

- b. The final detail roster of selected personnel will be posted in districts by Friday of the second week. A posting date and due date will be noted on each sign-up sheet. Once the sign-up sheets are recalled from the districts, DCU will not accept late sign up requests over the phone. DCU will not release the names of selected personnel until the lists are posted in the districts. Once the final picks have been posted in the districts, any officer interested in filling a vacant detail slot must contact DCU to sign up for the detail.
 - c. Personnel assigned to the district where the bar is located will receive first preference for parking lot details at liquor permit premises. DCU will select officers from other districts/sections/units for any remaining dates.

- d. Personnel who sign up for parking lot details at liquor permit premises must include their name, badge number, and unit of assignment. If any of the information is missing, the officer will not be selected for the detail.
 - e. It is a violation of Department policy to sign up for more than one detail at the same time. Officers who violate this policy will not be selected by DCU to work either detail. This is in addition to any other necessary corrective action.
- 3. District commanders may cancel or deny a parking lot detail at a liquor permit premise when they:
 - a. Recommend a liquor license not be renewed.
 - b. Determine if a potential conflict of interest could arise between officers working the blanket permit detail and officers enforcing liquor violations.
 - 4. Officers are not permitted to enter the liquor permit premise except for emergency situations. Officers will not act as bouncers or check identifications.
 - 5. Officers will enforce all laws in and around their area of assignment.

J. Strikes:

- 1. Employees holding outside employment work permits with a company affected by a strike will suspend employment with that company during the strike.
 - a. The detail coordinator must report this action on a Form 17 to the Police Chief.
 - b. Upon termination of the strike, the affected employee will request, via Form 17, reinstatement of the permit by the Police Chief.

K. Detail Notification:

1. The officer working an outside employment detail is responsible to ensure the detail is:
 - a. Properly entered in the CAD (computer aided dispatch) system.
 - b. Logged off (removed from) the CAD system at the end of the detail.
 - 1) Details will not be entered or secured from the CAD system by radio.
2. PCS (Police Communications Section) will not be responsible for accuracy of detail entries or logging off such entries.
3. The officer working the detail may go in person to the CAD terminal or contact the district desk officer to enter or log off the detail. Detail information will not be relayed by radio.
4. The MDT (mobile data terminal) may be utilized to enter detail information and to log the detail off CAD.
5. Relief supervisors will review details worked during their tour of duty, via the MDT or CAD terminal. They are responsible for ensuring details are properly secured in a timely manner.
6. PCS will broadcast information when details will have city-wide impact (road closures, etc.).

L. Prisoners:

1. Officers who make an original arrest while working a police related detail will:
 - a. Accompany the prisoner to the Justice Center for processing.

- 1) A district supervisor may make exceptions if a detail officer cannot leave a post.
 - b. Upon completion, call for an on-duty officer for transportation back to the detail site.
- M. Outside Employment while on Light Duty, Injured With Pay Status, or Off-Duty Sick Status:
1. Officers may not work a police related detail while on light duty, in an off-duty injured with pay status, in **any** off-duty sick status, or off-duty due to any Family Medical Leave Act (FMLA) approved time.
 2. Officers may engage in non-police related employment while on light duty, or in an off-duty injured with pay status, if the work does not exceed the officer's light duty or injured with pay limitations.
 3. Employees will not work any other employment while on sick with pay status with the city.
 4. Officers must physically report for work after being off duty while injured, sick, or taking FMLA approved time before working a police related detail.
 - a. Officers who call their workplace and report themselves on track are not eligible to work a police related detail prior to reporting for their next scheduled tour of duty.
- N. Mounted and Canine Squads:
1. Direct outside employment requests for the Mounted or Canine Squads to the Special Services Section.
 - a. Special Services Section will coordinate these details with the affected district commander.

2. The hourly rate for use of the animal is \$25.00 per hour, with a four hour minimum. Detail time will include sufficient time to prepare, transport, and secure the animal after the detail.
 - a. The hourly rate for the officer will be in addition to the cost of the animal and equipment, and will correspond with the current compensation schedule.
 3. Police vehicles used for transporting the animals are billed at the current rate.
 4. Any waiver of fees will require the Police Chief's or Bureau Commander's written approval.
 5. Department guidelines for canine and mounted use apply to all outside employment details.
- O. Detail Inspections:
1. The DCU Commander will conduct random inspections of all outside employment details and will report the results of those inspections to the Bureau Commander.
 2. On Friday of each week, DCU will provide each district with a list of all details scheduled by DCU for the upcoming week, Friday through Thursday.
 3. On-duty supervisors, as part of their regular duties, will inspect outside employment details and document any violations of Department rules, regulations, or procedures, including Procedure 19.140. Inspection will include attention to the following:
 - a. Officer(s) appearance and fitness for duty
 - b. Whether the officer(s) is attending to required duties
 - c. Whether the officer(s) who signed up for the outside employment detail is working the detail

4. District supervisors are responsible for inspection of DCU details and details scheduled and coordinated by district/section/unit coordinators.
- P. Corrective/Disciplinary Action and Suspension from Details:
1. Personnel are subject to progressive corrective/disciplinary action and/or suspension from all detail and PVO assignments for the following:
 - a. Violation of any provision of this procedure
 - b. Failure to report for an assigned outside employment detail
 - c. Tardiness
 - d. Lack of proper equipment
 - e. Unacceptable appearance, performance, or conduct
 2. DCU will be the central repository for all employee records relating to corrective/disciplinary action and suspension from detail.
 - a. Supervisors will report all instances of absenteeism and tardiness to DCU via a Form 17DP.
 - b. DCU will forward all disciplinary recommendations through the Bureau Commander to the Police Chief for approval.